UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

CARMEN E.F. VASQUEZ, *et al.*,	:
Plaintiffs,	:
	:
-vs-	: Civil No. 3:01cv955 (PCD)
	:
SUMMIT WOMEN'S CENTER, INC.,	:
et al.,	:
Defendants.	:

RULING

Defendants Patricia Hendrickson, Elizabeth Wacker, Donald Hendrickson and Elizabeth Love move for leave to depart from the Supplemental Order, for an extension of time, and to dismiss themselves as parties.[1] For the reasons set forth herein, the motion to dismiss is denied, the motion for leave to depart from the Supplemental Order is granted, and the motion for an extension of time is denied.

I. BACKGROUND

Defendants, volunteer escorts at the Summit Women's Center, were added as parties by amended complaint. In opposing leave to file an amended complaint, the party-defendants at the time asserted that leave to amend should be denied because of resulting prejudice, futility

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[1] Defendants, as non-parties, submitted a memorandum in opposition to plaintiffs' motion for leave to file an amended complaint. The standing of non-parties to challenge a motion for leave to file an amended complaint that seeks to add them is, at best, dubious. *See* 3 JAMES WM. MOORE ET AL., MOORE'S FEDERAL PRACTICE ¶ 14.21(2) (3d ed. 1999) (third parties do not have standing to contest the joinder because they are not "of record"). In light of their questionable standing as non-parties to contest the filing of an amended complaint, the present motion for reconsideration will be construed as a motion to dismiss parties pursuant to FED. R. CIV. P. 21.

and plaintiffs' failure to join the new parties in a timely fashion. On November 5, 2001, plaintiffs were granted leave to amend their complaint and join the escorts as defendants.

II. MOTION TO DEPART FROM SUPPLEMENTAL ORDER

Defendants move for leave to depart from the Supplemental Order to expedite ruling on their motion to dismiss themselves as parties. Defendants' motion to depart from the Supplemental Order is granted.

III. MOTION TO DISMISS PARTIES

Defendants move to dismiss themselves as parties, arguing that by improperly characterizing them as "employees of Summit Women's Center," "critical facts that should alter the . . . decision to permit amendment of the [c]omplaint" were overlooked. Such is not the case.

A. Standard

A party may be dismissed pursuant to FED. R. CIV. P. 21. *United States v. Wyo. Nat'l Bank*, 505 F.2d 1064, 1067 (10th Cir. 1974); *Condosta v. Vt. Elec. Coop., Inc.*, 400 F. Supp. 358, 365 (D. Vt. 1975). Adequate bases for dismissal of a party include misjoinder, *see* FED. R. CIV. P. 21, or other sufficient basis rendering joinder of the party imprudent under the circumstances, *see, e.g., DuPont Glore Forgan, Inc. v. Arnold Bernhard & Co.*, 73 F.R.D. 313, 314-15 (S.D.N.Y. 1976) (bankruptcy stay precluded proceedings against joined party); *Anrig v. Ringsby United*, 603 F.2d 1319, 1324 (9th Cir. 1978) (joinder renders parties non-diverse); *Miss. Valley Barge Line Co. v. Bulk Carriers, Ltd.*, 249 F. Supp. 743, 746 (S.D.N.Y. 1965) (inability to serve process on joined

party); *Fid. & Cas. Co. v. Reserve Ins. Co.*, 596 F.2d 914, 918 (9th Cir. 1979) (sovereign immunity of joined party). If joinder of the party was proper, if the moving party fails to establish sufficient basis to justify dismissal of the party, and if the interests of judicial economy are served by joinder of the party, *see* FED. R. CIV. P. 1, then the motion should be denied. *See Condosta*, 400 F. Supp. at 365.

B. Discussion

At the outset, defendants make much of the fact that they were identified in the ruling as "employees" rather than "escorts" or "volunteers." The characterization of the defendants was not essential to the ruling to permit joinder of the four defendants, and no position is taken as to the nature of the relationship between the newly added defendants and Summit Women's Center. In any event, such a determination would require the standard of review, namely summary judgment, *see Republic Nat'l Bank v. Hales*, 75 F. Supp. 2d 300, 309 (S.D.N.Y. 1999), proposed by defendants in opposition to the filing of an amended complaint. As indicated in the ruling on plaintiffs' motion for leave to file an amended complaint, defendants' invitation to scrutinize discovery materials at this time is inappropriate.

Defendants' remaining arguments attacking the propriety of joinder are the same arguments previously posed in opposition to the filing of an amended complaint. The ruling on these arguments need not be restated here. Defendants have neither established misjoinder nor identified other sufficient bases for dismissing them as parties. Their motion is, therefore, denied.

IV. MOTION TO EXTEND DISCOVERY DEADLINES

Defendants, as newly added parties, also move to extend discovery deadlines for three months. On November 15, 2001, their attorney, Sharon Jaffe, gave notice that the defendants reached a settlement agreement. Based on this information, the motion for extension is denied without prejudice to refiling the motion should the settlement discussions not proceed as expected.

V. CONCLUSION

Defendants' motion for leave to depart from the Supplemental Order (Doc. 87) is **granted**, defendants' motion to dismiss themselves as parties (Doc. 85) is **denied**, and defendants' motion for extension of time (Doc. 87) is **denied**.

SO ORDERED.

Dated at New Haven, Connecticut, November ___, 2001.

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Peter C. Dorsey
Senior United States District Judge